

EXHIBIT 45

In The Matter Of:

GLOBAL BTG, LLC

v.

NATIONAL AIR CARGO

McFARLANE, KEVIN D. - Vol. 1

August 17, 2012

MERRILL CORPORATION

Legalink, Inc.

20750 Ventura Boulevard
Suite 205
Woodland Hills, CA 91364
Phone: 818.593.2300
Fax: 818.593.2301

KEVIN D. MCFARLANE - 8/17/2012

Page 121

1 that may exist at one point and pricing that exists 01:41:10
2 later on in -- later on in time. So -- but I wasn't 01:41:13
3 part of that -- I wasn't part of that transaction. 01:41:16

4 Q. Let me see if I can summarize your damages 01:41:18
5 opinions in your main report. 01:41:27

6 Your first opinion is that there was a loss 01:41:29
7 of the portion of the JAL deposit, and that was 01:41:32
8 damage to National that was caused by Global; right? 01:41:35

9 A. Yes. 01:41:38

10 Q. And second, there was an incremental 01:41:39
11 financing cost paid for the Air France aircraft deal 01:41:42
12 that would not have been paid had Global performed? 01:41:46

13 A. Correct. 01:41:49

14 Q. And that's the argument, that -- that the 01:41:50
15 price went up because Global wasn't able to get the 01:41:53
16 deal on the table that they had agreed to get? Is 01:41:59
17 that the -- 01:42:02

18 A. Correct. 01:42:02

19 Q. The third is that there was a loss of the 01:42:04
20 JAL transaction. There was damage because they lost 01:42:07
21 the JAL aircraft and they lost the JAL -- strike it. 01:42:10

22 There is damage because they lost the JAL 01:42:16
23 aircraft? 01:42:19

24 A. Correct. 01:42:19

25 Q. And to calculate that, you determine how 01:42:20

Merrill Corporation - Los Angeles
Los Angeles - 800-826-0277 www.merrillcorp.com/law

KEVIN D. MCFARLANE - 8/17/2012

Page 122

1	much they would have profited over the lifecycle of	01:42:25
2	the aircraft if they had purchased it on market	01:42:29
3	terms?	01:42:32
4	A. Correct.	01:42:33
5	Q. So you used the 9 percent first tranche	01:42:34
6	rather than the terms that are in the Global BTG	01:42:37
7	LOI?	01:42:47
8	A. Correct.	01:42:47
9	Q. The next opinion is that there were losses	01:42:50
10	due to economies of scale that impact the Air France	01:42:53
11	aircraft; is that right?	01:42:57
12	A. Correct.	01:42:58
13	Q. And that's the argument, that the Air	01:42:58
14	France aircraft were unable to be deployed as	01:43:01
15	profitably as they could have been deployed had	01:43:03
16	they -- had National purchased all eight?	01:43:06
17	A. Correct.	01:43:09
18	Q. Any other -- any other damages that -- any	01:43:13
19	other damages opinions that I am missing?	01:43:17
20	A. Those were the four that I cited in the	01:43:19
21	report.	01:43:22
22	Q. And I was just -- before you got in, I was	01:43:23
23	swearing that I thought there was a reference that	01:43:27
24	the report was prepared consistent with AICPA	01:43:29
25	standards.	01:43:32

Merrill Corporation - Los Angeles
Los Angeles - 800-826-0277 www.merrillcorp.com/law

KEVIN D. McFARLANE - 8/17/2012

Page 123

1	Does that ring a bell?	01:43:33
2	A. Yes.	01:43:34
3	Q. Is that correct?	01:43:36
4	A. It was -- yes.	01:43:37
5	Q. Tell me what the -- what role the AICPA has	01:43:39
6	in setting standards for the preparation of a report	01:43:46
7	like this.	01:43:49
8	A. There are -- there are things that you do	01:43:51
9	with respect to how you think about comparables, how	01:43:52
10	you think about -- you know, we have a secondary	01:43:56
11	reviewer, for example. We have -- in terms of the	01:44:01
12	due care that you must take as a professional. So	01:44:05
13	we have somebody go back and -- and test the model,	01:44:09
14	just to make sure there are no errors. That doesn't	01:44:13
15	mean that they can't be, but -- but it's -- it's --	01:44:17
16	a lot of it has to do with the care and	01:44:21
17	responsibility that you have under those standards.	01:44:25
18	Q. Do you perform all of your professional	01:44:30
19	work in accordance with AICPA standards when they	01:44:34
20	apply?	01:44:38
21	A. I'm sorry.	01:44:43
22	Q. Do you perform all your professional work	01:44:43
23	in accordance with the AICPA standards?	01:44:46
24	MR. RICHMOND: I will object to the extent	01:44:46
25	the question seems extraordinarily broad.	01:44:49

Merrill Corporation - Los Angeles
Los Angeles - 800-826-0277 www.merrillcorp.com/law

KEVIN D. MCFARLANE - 8/17/2012

Page 124

1 But go ahead. 01:44:52

2 THE WITNESS: Yeah. I -- I -- we -- what I 01:44:53

3 would say is that we -- we try to adhere to the -- 01:44:54

4 to professional standards. And if -- and if AICPA 01:44:58

5 applies, particularly with respect to where we are 01:45:03

6 signing something, by either Kevin McFarlane or 01:45:06

7 Deloitte, yes. We would -- if -- if those rule sets 01:45:11

8 apply, then we would seek to perform to that 01:45:14

9 standard. 01:45:17

10 BY MR. SMITH: 01:45:18

11 Q. And if a subordinate of yours provided you 01:45:19

12 with work and was not -- the work was not in accord 01:45:25

13 with AICPA standards, would you consider that work 01:45:29

14 consistent with the degree of professionalism and 01:45:35

15 expertise that's required of a Deloitte employee? 01:45:38

16 MR. RICHMOND: I will object because that 01:45:41

17 is extraordinarily broad again. But -- and even 01:45:42

18 vague because it's not tied to this case. 01:45:45

19 But go ahead if you can answer. 01:45:48

20 THE WITNESS: Repeat the question, please. 01:45:54

21 BY MR. SMITH: 01:45:54

22 Q. If a subordinate of yours provided you with 01:45:55

23 work that was not in accordance with AICPA 01:45:58

24 standards, would you consider that work to be 01:46:01

25 consistent with the degree of professionalism and 01:46:02

Merrill Corporation - Los Angeles
Los Angeles - 800-826-0277 www.merrillcorp.com/law

KEVIN D. McFARLANE - 8/17/2012

Page 125

1	expertise that is required of a Deloitte employee?	01:46:05
2	MR. RICHMOND: Same objection.	01:46:07
3	THE WITNESS: I -- that's a standard that	01:46:10
4	we strive to. I think that -- has -- can I sit here	01:46:13
5	and say there has never been a piece of Deloitte	01:46:19
6	work that -- that hasn't between -- that's met every	01:46:22
7	standard or every -- every letter of the AICP	01:46:26
8	standard? No, I can't sit here and say that. But	01:46:28
9	that's what we strive -- that's what we strive to	01:46:31
10	do. And I think in striving to do that, we -- we	01:46:33
11	meet certainly the spirit, if not the standard of	01:46:37
12	those standards more often than not is, I guess, how	01:46:39
13	I'd answer the question.	01:46:42
14	BY MR. SMITH:	01:46:43
15	Q. And one of the documents that -- that you	01:46:44
16	provided to us in the production yesterday is an	01:46:46
17	AICPA publication on calculating lost profits.	01:46:49
18	You remember that?	01:46:52
19	A. Uh-huh.	01:46:53
20	Q. How did you -- what role did that	01:46:54
21	publication have in the preparation of your report,	01:46:56
22	your main report?	01:47:00
23	A. That -- that's what we use in order to --	01:47:02
24	for our secondary reviewer to -- to make sure that	01:47:06
25	that's -- that we have at least tried to -- to live	01:47:09

Merrill Corporation - Los Angeles
Los Angeles - 800-826-0277 www.merrillcorp.com/law

KEVIN D. MCFARLANE - 8/17/2012

Page 249

1 DECLARATION

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I hereby declare I am the deponent in the within matter; that I have read the foregoing deposition and know the contents thereof; and I declare that the same is true of my knowledge except as to the matters which are therein stated upon my information or belief, and as to those matters, I believe it to be true.

I declare under the penalties of perjury under the law of the State of California that the foregoing is true and correct.

This declaration is executed this _____ day of _____, 20____, at _____, California.

KEVIN D. MCFARLANE

KEVIN D. McFARLANE - 8/17/2012

1 STATE OF CALIFORNIA)

2) ss.

3 COUNTY OF LOS ANGELES)

4

5 I, Xavier Mireles, CSR No. 5001 in and for the State
6 of California, do hereby certify:

7 That, prior to being examined, the witness named in
8 the foregoing deposition was by me placed under oath to
9 testify to the truth, the whole truth, and nothing but
10 the truth;

11 That said deposition was recorded stenographically
12 by me at the time and place therein named and thereafter
13 transcribed, and the same is a true, correct, and
14 complete transcript of said proceedings.

15 Before completion of the deposition, review of the
16 transcript [] was [X] was not requested. If requested,
17 any changes made by the deponent (and provided to the
18 reporter) during the period allowed are appended hereto.

19 I further certify that I am not interested in the
20 event of this action.

21 WITNESS MY HAND this _____ day of _____,
22 2012.

23

24

25 _____
XAVIER MIRELES, CSR No. 5001

Merrill Corporation - Los Angeles
Los Angeles - 800-826-0277 www.merrillcorp.com/law

EXHIBIT 46

**FILED UNDER SEAL PURSUANT TO
PROTECTIVE ORDER**

EXHIBIT 47

**FILED UNDER SEAL PURSUANT TO
PROTECTIVE ORDER**